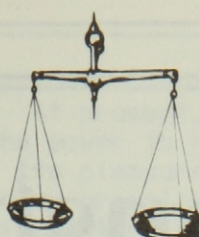


# Quid Novi



VOL. II NO. 20

LAW LIBRARY MCGILL UNIVERSITY FACULTY OF LAW

February 18, 1982

SEP 26 1983

MCGILL UNIVERSITY

## Coffee or tea ... with the Dean?

BY LYNN BAILEY

As an added bonus to the faithful *Quid Novi* reader and in an effort to introduce a little authenticity in the reporting of the more serious events around the school, the editors present the first in a series of interviews with the infamous Dean J.E.C. Brierly.

Those of you who have seen this tall impressive looking gentleman striding around the school, and who thought that his only function was to be hospitable to the visitors that the rest of us ignore, might be surprised to learn that he does have opinions about the various goings-on. In fact, rumour has it, these even pull a little weight from time to time. As shortage of time unfortunately prevents the Dean from inviting each and every one of us in for a cup of tea and a chat about the weeks occurrences, *Quid Novi* hopes to provide the medium through which the students can get this information. Have you been curious about what the Dean thinks of all the antics we, the students, take part in? Was he aware of them? (More importantly, how did he find out??) The answers to these and other pertinent questions will be found weekly in these pages.

A piece of news that held an interest for many students was the passing of the BSA proposal by Faculty Council. This issue has been a controversial one both as to its contents and as to the reason why it was not passed by the Senate last fall.

When asked whether he thought the BSA proposal was a good one, the Dean answered in the affirmative. He was quick to point out however that the quality of any student-run program depends on the quality of the individuals running it. He stated that any activity of this sort had the weakness that it would be subject to periods of highs and lows; sometimes being run efficiently and at other times lacking the effectiveness necessary to fulfill the goals intended by the Curriculum Committee. The Dean

complimented this year's students on their hard work and success. He added that he hopes the double-screening process (by students and Faculty) will ensure that such qualified people will continue to be chosen. As regards the delays which have been met in having the BSA proposal accepted, the Dean revealed that he does not consider these unjustified. He stated that any good program requires at least a year's planning and definition, and the BSA is no exception.

(Continued page 3)

## Faculty scrambles

BY JOSEPH RIKHOF

Faculty Council decided on Thursday, Feb. 11, to create two new courses, Property IV, Security on Moveables and Native Peoples and the Law. The content of two other courses was amended, Property II and Board of Student Advisors.

The restructuring of Property II and the creation of Property IV was the result of an amendment presented by the LUS delegates. Bothered by the overlap in the contents of Property II, Financing Real Estate Transactions and the proposed Financing Commercial Transactions course, they felt that a different organization of those courses would lead to a rationalization of the

## Council courses

teaching of the law of security on moveable and immoveable property in Quebec.

For that reason they moved:

That the course description of Property II be amended to create a 3 credit, semi-obligatory course: Property II - Security on Immoveables - The concepts of Quebec law of patrimony and security on property, elements of land title registration systems; hypothecs, privileges, pledge. Elements of financing land acquisition and development, the protection to be given the hypothecary creditor, the development of the emphyteutic lease as a financing tool.

(Continued page 8)



L.U.S.

# A new constitution...

Last October, the L.U.S. Council created a Structural Revision Committee. The purpose of the Committee was to examine the present governing framework under the L.U.S. constitution and to come up with proposed reforms designed to alleviate perceived weaknesses in the present structure. As a result of its deliberations, the Committee has produced a new constitution, to be voted upon in a general referendum in March.

One of the main problems with the present structure is the weakness of the L.U.S. Council. Over half the members of the present Council are not elected, but sit on Council as representatives of particular organizations or committees. There is no guarantee that a decision of this Council can ever be representative of the student body. The result is that whenever an issue produces a close vote (e.g., the Exam posting debate), Council feels

unable to make a binding decision and refers the problem to a General Assembly.

To make Council a more effective body, the Committee decided that Council had to become more representative. Therefore, art. 13 of the proposed constitution reduces Council's size to its elected representatives: 6 Executive members, 7 Class Presidents, 1 Graduate Student's representative, and Student Representatives on Faculty Council.

It is hoped that a more representative Council will reduce the need to present every contentious issue to a General Assembly. However, a General Assembly can be called (as under art. 22 of the present constitution) by the Executive or by a petition signed by 40 students. In the ordinary course of events, the Council, not the General Assembly, will be the final organ of decision-making.

Several other reforms proposed by the Committee are designed to improve the efficiency of our student government. Art. 5(iv) of the new constitution adds the position of Vice-President University Affairs to the Executive. This person would provide the L.U.S. with a direct link with other student organizations and remove some of the work-load from the other members of the Executive. He or she would also be the Law representative on the McGill Student's Society Council. The role of the Executive is more precisely defined in the new constitution. Furthermore, art. 6.1(vi) requires the Executive to have Council authorization before it signs contracts on behalf of the Association.

Art. 10 of the new constitution requires that the Treasurer publishes financial statements every term. This is being done this year only because the current Treasurer had this in his platform.

## AMERICAN CORNER

### Reagan and the great white north

Demetrios Xistris's piece in last week's *Quid Novi* is an engaging indictment of the politics of rhetoric as practised by Ronald Reagan. If we can bear to disengage ourselves from the particulars of his administration's policies however, we might ask ourselves why even employ the "Politics of Rhetoric"? What importance does the "style" of politics have on us here in the "Great White North"?

It is well recognized, as was pointed out by Xistris, quoting Professor Newstadt, that the power of the "Presidency" -- here distinguishing it from the President -- is far less substantial than the office on its face would indicate. The most adequate explanation for this is rooted in the institutional character of the Federal government. This character while relatively stable has still developed from the Second Constitution. So it is necessary to get beyond simple notions of checks and

balances and adumbrate the ever-changing rules of the game.

Up until the 1930's, the National Government consisted of a strong Congress distributing benefits to limited sections of society, mainly business. Such efforts were advanced as reinforcing the general abundance that the market place was capable of producing.

Administration was largely a function not of the bureaucracy, of which there was very little, but of the Courts. The Presidency played a political party role, a limited foreign policy role and an attenuated domestic legislative role.

The Revolution of the 1930's -- called by one of America's premiere political scientists, Theodore Lowi, as the revolution of the second Republic -- opened up a range of functions to the Executive never contemplated by the Founders, except perhaps Hamilton. This so-called "crisis of capitalism"

led Roosevelt to seize the initiative through the New Deal.

Suddenly, the Executive became the primary legislator. It spun-off all sorts of new agencies to administer these programs; it began building an administrative capacity for the Executive Branch itself. It became the centre of a potentially vast intrusive national authority.

Yet the metamorphosis of the Executive and National Government was never as complete as critics, largely conservative, were apt to point out. True, the Congress largely abdicated its legislative initiating role; but it saved the power of veto. And the Court after hesitation (see the "Sick Chicken" case), abandoned its efforts to hamstring independent agency administration through an application of substantive due process criteria. This move marked the Court's retreat from its more anxious oversight of the American



Art. 12 of the new constitution defers the transfer of power to the new Executive to the end of April instead of the end of March under the present constitution. This article is intended to make the transfer smoother by requiring the outgoing Executive to prepare a year-end report.

Besides the previously noted changes in the Council, Art. 17.5 provides that the L.U.S. meetings will be chaired by a Speaker. This is to ensure full and free debate in Council.

An attempt has been made in the draft constitution to sort out the relationship of the L.U.S. and their many delegates and committees. According to the new classification there are three types: the Standing Representatives on Faculty Council; the Standing Service Committees; and Autonomous Organizations.

The first category, the Standing Representatives, would be appointed by the Executive as before, but subject to the corrective supervision of Council. Council would also have a share in the general supervision of their activities.

The second category, the Standing Service Committees, include the Sports, Social, Information (Quid Novi), Job Bank, and Bookstore

Committees. At present, the Executive has the power to regulate and dismiss "at its pleasure". It was felt that these organizations work best without constant intervention; indeed their independent esprit de corps is their most important asset. Consequently they are being described as "semi-autonomous". On the one hand, they have their own constitutional provisions detailed in an Appendix to the constitution of the L.U.S. which allow them to establish publicly their procedural and continuity rules. On the other hand Council, by a 2/3 majority, can intervene in their affairs; but only on its authority to interpret the individual constitutions.

Finally, there are the independent organizations (all the rest). The L.U.S. has no control now, and proposes none, aside from the right to attach conditions to its funding, and, naturally, the right to complain.

This Thursday, Feb. 18, there will be a General Assembly and an L.U.S. Council meeting to discuss the proposal. The Council meeting is open to all students and will be at 6:00 p.m. in Room 202. Copies of the new and old constitutions are posted in the L.U.S. office. It's your constitution, so please come and give us the benefit of your ideas.

#### THE STRUCTURAL REVISION COMMITTEE

economy. Nevertheless, the Court's "due process" concerns were not abandoned, they have served adequately as a means to an activist role -- witness the decisions of the Warren Court period.

Seen from this view the revolution was one not so much of the Presidency as the President. Its character and success was far more a product of the holder of the office than the office itself. History, has shown some presidents have wielded great power; others it is clear have not. The Presidency is a grafting together, an incomplete integration, of old and new institutions and objectives held together by successful presidents.

What marks out the nature of success of Presidents in this institution? I think one criterion has to be substantial policy change in the face of the continuing competition of power among institutions. With the possible anomaly of Johnson who was aided by the unfortunate circumstances of his predecessor's assassination, the "successful" presidents are those who have mobilized national support through rhetoric. The rhetoric has enabled the office holder to overcome the

inadequacies of the office. Rhetoric and policy have marched hand in hand in the American political process. Such a view would suggest that rhetoric is not simply a substitute for substance but it is the prerequisite for it.

Furthermore, in the context of those individuals able to grasp and apply this political logic -- as I think Reagan does -- it alerts us to their attention to rhetoric as a vital policy resource.

If this is true, it suggests why we on this side of the border should be concerned with the incompatibility of the current American rhetoric with our own governmental objectives. If rhetoric is as vital a resource to policy as this analysis argues, then it will not lightly be abandoned or ignored. Rhetoric to Reagan is not "mere puff", it is the President's "kryptonite". Dilutions is not in the cards for the current administration. If true we are likely to see some very "heavy sledding" between ourselves and the elephant to the South. For the Great White North this could very well not be a "Beauty".

ALAN ALEXANDROFF

(Continued from page 1)

Another motion passed at the Faculty Council meeting involved the creation of another 2 credit B.C.L. course. When asked to explain the controversy behind credit distribution, the Dean responded that the decision was largely historical. Traditionally, a certain number of credits have been given for a certain subject. The decision is always a matter of balancing whether a law school should offer a wider variety of subjects or more in-depth study of fewer topics. The situation is made even more challenging at McGill which the Dean sees as having by far the most complex curriculum of any law school in Canada. The vigorous management of this curriculum that one sees at McGill is necessary in ensuring that it remains an effective institution. The Dean pointed out that the need for curriculum reform goes in cycles, with more activity needed in the face of issues such as women's or native's rights.

In response to the question of the relevance of student input in the decision-making process at McGill, the Dean stated that he felt that it played a large role. He feels that the faculty has been very receptive to any ideas which are presented in a responsible fashion, and that they will continue to do so in the future. The Dean pointed out however that students have a different perspective than do members of the faculty, as they are only here for a relatively short period of time. The ability to step back and look at law school activities in terms of cycles, or highs and lows is one which few law students can gain. The Dean emphasized that it is the conflict between the long-term and short-term perspectives, rather than the fact that members of the faculty feel that they are "older and wiser" that is the source of disapproval of student ideas from time to time. The Dean added however, that this year has been a productive one for McGill which has, in the past, had years of notable student unrest. The Dean describes this year's student body as positive and constructive.

Next week's Faculty Council meeting has a proposal for a major change in the National Program on the agenda. Quid Novi looks forward once more to providing the Dean's thoughts on this fundamental matter. Any specific questions the readers may have will be received at the Quid Novi office before noon on Friday.



# Editorial

## Letter to readers

I'm not going to take this opportunity to tell you how hard we work to bring you the Quid each week. But I would like to tell you how hard we are working to ensure Quid Novi's survival.

Before this year, there was some doubt whether a weekly newspaper was a viable proposition in the Law Faculty. Previous attempts had failed for one reason or another. Well, we now have a paper that has a chance to make it.

The strategy adopted this year was to make the paper first of all informative, and secondly, entertaining. The prevailing criticism throughout the year has been that we were being too serious. But does anyone realize how much harder it is to be funny than to be informative? It has been, and remains, my belief that Quid Novi is most likely to be around for a while if it concentrates on its "serious" mandate. Entertainment depends on what talent is around, but anyone can report the news.

By the way, I'd like to thank all those who took the trouble to return our questionnaire. The response fell short of overwhelming; about 20 were received, but those were very encouraging. The point of that exercise was to convince you that we want and need to hear your views on what we are doing. If something bugs you, please feel free to tell us about it or drop a note in our box in the L.U.S. office.

We now have weekly meetings to discuss all aspects of the paper: production, editorial policy, planning, and so on. You're always welcome to drop by to see how we operate, offer your services (always needed), voice your complaints, or whatever. Meetings are Mondays at one, usually in room 204 or that vicinity.

Now, ahem, I'd like to talk about money. I guess that sooner or later the student body is going to have to decide how much it loves Quid Novi. At the beginning of this year, we didn't have any idea how much it would cost to produce a newspaper. The L.U.S. Executive who have given us tremendous support, settled on a figure of \$1,500, which is about twice what Quid cost last year, a sizeable grant compared with other L.U.S. grants, but peanuts to operate a weekly newspaper.

Well, we've done pretty well with that money. (I hope you'll take my word for it but you're more than welcome to check if you want). But now it's gone.

I don't really anticipate a problem this year. The Dean has indicated that he is willing to make some sort of contribution, and we're working on alternate ways to raise money. We need about another thousand dollars to finish off the year.

The real difficulties are in the future. I don't think the paper can continue indefinitely on a shoestring budget, using makeshift production techniques as we are doing. Dean Brierly has most generously, although a bit grudgingly, allowed us access to the Faculty's word processors. Unlike other campus papers (except, recently the Daily), we handle all aspects of production except printing, which is done very reasonably by the McGill Printing Service. This arrangement has been cheap and was, probably, a necessary way to launch Quid Novi this year. But this system is too tenuous to rely on indefinitely. For one thing, it puts too much strain on the staff and detracts from our ability to upgrade the content of the paper. Worse, if one or both of the word processors decides to quit, a not too unlikely Monday night scenario, we're screwed: no Quid Novi.

Another problem is that everyone who gives us money takes pains to stress that they don't want their largess to be interpreted as a permanent commitment. I'll take issue with that one later.

So, the crux of the matter, as I see it, is that we're going to have to make the big leap to having the paper properly typeset and we're going to need lots and lots of money to do it. We currently pay \$73 for printing for an 8 page issue. With 26 issues that makes \$1898 for the year. Add typesetting at \$14 a page, or typesetting plus paste-up (another desirable given our very

limited facilities) at \$24 a page. Thus, we're looking at \$185 or \$265 per issue, \$4810 or \$6890 for a year (inflation and incidentals omitted). A budget of \$9000 would be wonderful!

Can it be done? I say it has to be. Surely one of the things that makes a law school great is a great (read half decent) newspaper. It's kind of pathetic that we've gone so long without one: whatever did happen to our faculty's first "national programme" (circa 1920) anyway? Our paper should be the cement which keeps us in touch with the legal world. Have a look sometime at the "Letters" section of the Harvard Law Record (available in the Library) for an idea of how we should be functioning in that respect.

So, money. First of all, we've got to stop thinking about our newspaper as a nice student activity which "adds something" to the Faculty. Law school is a community where many of us spend a good part of three or four years, and it should be unthinkable not to have a newspaper. Funding should be based not on anyone's generosity but rather on the desire of the student body to have a newspaper and the interest of the Faculty that such a forum exist. From this perspective, we need to be guaranteed a certain level of income from the student body, and we should have a commitment of some support, perhaps a matching grant, from the Dean.

Secondly, of course, we've got to do a lot better at selling advertising in the future. This year's effort has been rather pathetic, but then again, we really haven't had much of a newspaper to sell. With improved appearance, our ability to raise revenue in this way should improve substantially.

Thirdly, it would be nice to tap our graduates for some support. These are the people with money, and hopefully some of them will retain a sufficient interest in the Faculty to subscribe to, and con-

QUID NOVI is published weekly by the students of the Faculty of Law of McGill University. Production is made possible by the support of the Dean's Office and the Law Undergraduate Society. Opinions expressed are those of the author only. Contributions are published at the discretion of the editor and must indicate author or origin.

Staff: Peter Dauphinee, Lynn Bailey, Richard Janda, Martine Turcotte, Ron Lucciola, Gary Littlejohn, Paul Mayer, Celia Rhea, Daniel Gogek, Lesley Cameron, Lise Hendlitz, Kim Rodgers, Pearl Eliadis, Joseph Rikhof, Jeff Reusing, Demetrios Xistris.

Contributors: Alan Alexandroff, Anne-Marie Veilleux.



tribute to, Quid Novi. A mailing campaign has begun to recent graduates to solicit support. We particularly hope that some percentage of those people graduating this year will subscribe to the paper for next year. This is important as it would raise our circulation and make the job of selling ads infinitely easier.

Finally, Quid Novi should get involved in two or three annual fund-raising events within the Faculty. For example, the Faculty party of March 19 will be run by Quid Novi staff and supporters for the benefit of the paper and we hope to have your complete participation for that event. Maybe we could start a lottery....

Ideally, if we can get a few hundred bucks ahead of the minimum necessary to finish the year, we will be able to have the last few issues typeset. This would be a better time to try out a new production process than beginning next term. Furthermore, it would arm some energetic individual(s) to go around at the end of the summer selling advertising.

Well that's it. Please remember: it's your paper and it's up to you, ultimately, whether it goes or it doesn't.

PETER DAUPHINEE  
EDITOR

## Letters

### BE A DIRECTOR FOR THE DAILY PUBLICATIONS SOCIETY

What is it to sit on the Board of Directors of the Daily Publications Society, the corporation publishing the McGill Daily?

The position is practically designed for law students. First you are a director of a corporation the legal functioning of which you studied in "Business Associations". There are many contracts that have to be approved every year, on which you can exercise your legal skills to single out the multiple loopholes left by their inexperienced draftsmen. The legal problems are numerous, like avoiding any possible civil liability for the corporation. You will also be dealing with lawsuits.

Furthermore, the DPS runs on a yearly budget of approximately \$215,000, allocated by the Directors. Revenues of about \$80,000 come from student fees, the rest coming from advertising. This money

goes into production costs, office overhead, employees' salaries and honoraria for the editorial staff of the newspaper. A substantial amount is also used to finish paying for the typesetting equipment (total cost; \$69,000). The equipment is situated in room B-03 of the Union Building.

As for the employees, the Directors deal mostly with the business-manager, the chief supervisor of the corporation--from whom they get an insight on the current affairs. The business-manager administers the personnel policy, the budget and most other aspects of the DPS. He is answerable only to the Board of Directors. Presently, the DPS hires a total of 8 people who sell advertising or help with the production of the paper.

Seven directors sit on the Board, four being elected student representatives while 3 others are chosen by the Daily. Passage of certain motions requires the vote of a Daily representative. The Board administers the general policies of the corporation in a way analogous to a Board of Trustees. On the other hand, the Daily staff is fully responsible for producing its newspaper. The student representatives' input into the Daily's editorial policy is de minimis, not to say ultra vires with respect to the DPS constitution.

This position is very attractive for law students interested in being involved with an organization dealing with financial, legal and administrative problems. Elections for student representatives will be held on March 10. Good luck.

LUC DROUIN

### HOW TO BECOME A SENATOR

In the past, there has been some confusion over jurisdiction for the election of Student Senators. I would like to clear this up.

Under Senate and Student Society Regulations, Student Senators must be elected by the Student's Society in elections governed by the nominating Committee. No senator may be elected in individual faculty association elections as has occurred in the past.

The general elections for all Student Society positions (except faculty representatives to Council) will be held on March 8 and 10, 1982. I would appreciate your help in getting candidates for your faculties position on Senate. Nominations close on February 18, 1982.

PAUL DUFF

### STUDENT REPRESENTATION: HAVE WE FORGOTTEN SO SOON?

I address the following question not merely to the Executive and Council of the Law Undergraduate Society, but to its membership in general: What happened to that earth-shaking issue which last year drove law students at McGill to approve protest action in the form of a day of silence - student representation on Faculty Council? Last winter we law students were indignant over Faculty Council's rejection of the reasonable demand for equitable representation on the Faculty's governing body. And this year? Not a peep!

If anything, this year's LUS Executive should consider the re-introduction of the question of increased student representation on Faculty Council an integral part of the platform upon which it was elected to office. It is therefore the responsibility of this Executive to at least reopen the discussion on this issue. Yet nothing appears to have been attempted during this academic year, even in the form of a re-examination of the question.

The question of representation is as much an issue this year as it was last year. Nothing has changed. Whereas the number of faculty representatives of Faculty Council has increased fifty percent over the last decade, student representation has been held constant at four members. In other words, student representation - the means by which our voice is officially heard here - has decreased significantly in proportion. In fact, we have the lowest student representation, proportionately, on a Faculty Council of all the law schools in Canada.

We have seen important and beneficial changes in this school over the last few years, especially since the White Paper of 1979 and the ensuing study session (1980) and Faculty Council committee work. As beneficiaries of past student efforts, we have an obligation not to simply allow this remaining, crucial issue to die unnoticed. It must not go unaddressed by the LUS Executive and Council any longer. If they are modifying student policy on this question, let them do so openly. Express your concern to your class rep and to the LUS Executive now!

DAVE TOUPIN



# Réformes au cours "legal clinic"

Le présent article se veut une critique du cours "Legal Clinic". Je voudrais faire part aux étudiants intéressés des démarches à entreprendre pour obtenir ce cours, des exigences de la faculté et des critiques que j'ai soumis au doyen à ce sujet.

## 1. Démarches et exigences de la faculté

En avril 1981, lors de la pré-inscription, j'inscrivais sur mon formulaire le cours "Legal Clinic". En septembre 81, j'apprenais que sur les huit étudiants inscrits, deux seulement avaient réussi à obtenir ce cours, c'est-à-dire les deux étudiants les plus rapides ou les mieux informés qui s'étaient précipités à la clinique d'aide juridique de Pointe St.-Charles durant l'été ou le début de septembre. Les six autres n'avaient qu'à se satisfaire de la clause d'exonération mentionnée au bottin des étudiants "The faculty cannot guarantee that the students who register for this course will be accepted due to a limited number of places"!...

Au cours de l'automne '81, Campbell Stuart et Roderick MacDonald entreprenaient d'élargir l'accès à ce cours et d'en définir le contenu. Il fallait en effet suppléer au nombre décroissant de cliniques d'aide juridique (il n'en existe plus que deux sur L'île de Montréal). Quelques étudiants sollicitèrent donc les bureaux d'aide juridique provincial. La plupart d'entre eux se montrèrent fort intéressés par l'idée: ils n'attendaient plus qu'un étudiant disponible, prêt à effectuer diverses tâches et assez autonome. (il faut noter ici que l'avocat de l'aide juridique, déjà débordé de travail, n'a nullement l'intention de "remorquer" un étudiant!) Quant au contenu du cours, limité jusqu'à septembre '81 à la description du bottin des étudiants p. 25... (!), il a été défini et précisé par un formulaire maintenant disponible au SAO. Ce formulaire suggère à l'étudiant le type de travail, la méthode d'évaluation... Mais aucune exigence précise n'y est déterminée.

Vers la fin octobre, je reprenais mon idée (tenace!) de m'inscrire au cours "Legal Clinic". A cette fin, je suis allée voir M. MacDonald pour qu'il me précise les exigences de la faculté quant au contenu de ce cours. Il me suggéra simplement

de me procurer le formulaire au SAO, sans préciser les exigences en termes de temps ou de travail. J'ai alors entrepris de prendre rendez-vous avec les avocats de divers bureaux et de leur proposer mes services pour la session d'hiver (En passant, laissez-moi vous dire qu'ils ne sont pas faciles à rejoindre les avocats!)

Puisque la faculté n'était pas un guide utile dans le processus de négociations (aucune exigence précise n'ayant été définie), j'avais communiqué auparavant avec un étudiant de McGill (maintenant au barreau) ayant déjà fait ce cours, pour m'informer du contenu et du nombre d'heures requises. Me basant sur son expérience et sur mon jugement, j'ai négocié avec le bureau d'Outremont l'arrangement suivant: sept heures/semaine de travail pendant 13 semaines, le travail devant comprendre du "court run", de la recherche et de la représentation de certains clients devant les tribunaux administratifs. Le projet était conforme à ce qui avait déjà fait par l'étudiant que j'avais contacté (celui-ci effectuait, un ou deux après-midi par semaine, du "court run" ou de la recherche.)

Et alors... quelle ne fut pas ma surprise (...) d'apprendre deux semaines plus tard que mon projet n'était pas accepté par la faculté; ou plutôt qu'il ne pouvait être réalisé que dans la mesure où je m'engageais à faire cent heures de travail au bureau provincial en excluant tout "court run". Cette nouvelle politique avait pour but, m'a-t-on dit, de contenir les abus survenus dans le passé (!?). Soudainement, la faculté établissait des critères précis au niveau de temps requis, du contenu du cours, et ce, bien sûr, sans aucune consultation avec les étudiants. Evidemment, le bureau d'Outremont, comme plusieurs autres d'ailleurs, n'est pas en mesure d'assurer cent heures de travail à un étudiant en deuxième année de droit, qui ne fait pas un stage mais seulement un cours de deux crédits.

Suite à ces faits, j'ai soumis au doyen la critique qui suit (voir la lettre infra). Je dois avouer que cette expérience m'a beaucoup appris sur l'attitude qui prévaut dans cette faculté. Je m'explique maintenant beaucoup mieux certains problèmes tels la représentativité des étudiants au conseil de la faculté pour n'en mentionner qu'un.

## 2. Critique

Montréal, 1 février 1982

M. Le Doyen J.E.C. Brierly  
Faculté de droit  
Université McGill  
Re: Cours Legal Clinic

Monsieur,

Etant une étudiante intéressée par le cours "legal clinic 496-046 A ou B" et ayant participé à l'implantation de ce cours dans les bureaux d'aide juridique, j'aimerais vous soumettre certaines remarques qui, je l'espère, s'avèreront constructives.

Le cours "legal clinic" figure parmi la liste des cours offerts aux étudiants. La démarche à suivre pour ceux-ci consiste à communiquer avec un bureau ou une clinique, et à y négocier un mode de travail et des heures de disponibilité. Le projet est ensuite approuvé par la faculté, sur demande de l'étudiant. Jusqu'à cette année, le cours ne pouvait être offert qu'à une infime minorité d'étudiants (deux!) puisque l'expérience pratique ne pouvait se dérouler que dans une clinique, et qu'il n'en existait que deux sur toute L'île de Montréal. Afin de remédier à ce problème, certains étudiants, dont j'en suis, ont entrepris, sous la direction de Campbell Stuart, de faire part de ce projet aux différents bureaux d'aide juridique provinciale. C'est dans ce contexte que se situe ce cours.

J'aimerais vous soumettre deux critiques sur ce mode de fonctionnement, la première portant sur la structure du cours en elle-même, et la seconde sur l'administration de ce cours.

Tout d'abord, j'aimerais souligner l'importance de ce cours et l'intérêt de l'offrir au plus grand nombre. Mon expérience pratique se limite aux deux heures/semaine que je consacre à la clinique d'aide juridique de McGill. Mais déjà, par ces quelques heures, je crois avoir beaucoup appris et approfondi mes connaissances.

Afin de comprendre les problèmes inhérents à la structure de ce cours, il importe d'abord de connaître les conditions dans lesquelles opère un bureau d'aide



juridique provinciale. Le bureau provincial répond à une foule de petits besoins chez un grand nombre. On y retrouve surtout du droit dit "social" (loi du bien-être social, accidents de travail, du logement ou de l'immigration, ceci au niveau civil). Les avocats travaillent avec un grand nombre de dossiers qui ne demandent pas toujours des recherches prolongées. Les réponses doivent être trouvées rapidement. Il existe assez peu de dossiers allant en appel, demandant une recherche extensive. Le bureau fonctionne aussi avec un stagiaire venant du barreau ou de l'UQUAM, selon la période de l'année. Ce stagiaire se trouve sur les lieux et est ainsi toujours disponible. Enfin, certaines cliniques ont un service de recherche juridique.

Dans cette optique, il appert que l'étudiant de McGill doit avoir quelque chose à offrir à la clinique, s'il veut y être "engagé". Le cours ne peut être rentable à l'étudiant que dans la mesure où il l'est aussi pour la clinique. Il m'apparaît donc que l'étudiant ne peut que rarement s'attendre à se voir attribuer toute la recherche. Il doit être disponible et prêt à accomplir diverses fonctions. L'une d'entre elles est certainement le "court run". En effet, il semble plutôt illogique que le stagiaire du barreau, plus âgé et plus expérimenté, ou encore que l'étudiant de l'UQUAM, plus disponible et suivi de plus près par ses professeurs dans son cheminement (le cours durant toute une session) se voit attribuer une telle tâche. Bien sûr, pour que le cours de l'étudiant de McGill soit profitable, il ne doit pas se limiter au "court run"! Diverses solutions peuvent être proposées, à mon avis.

La première consiste en ceci: permettre à l'étudiant d'accomplir diverses fonctions, incluant le "court run", à raison d'une totalité de cent heures/session, dans la mesure où le "court run" ne constitue pas plus que 30% des tâches à accomplir. Cette solution m'apparaît raisonnable à l'égard de temps habituellement requis pour un cours de deux crédits, aux besoins du milieu et aux connaissances acquises. Il faut noter tout d'abord qu'un cours de deux crédits ne demande que rarement une somme de travail totalisant cent heures, ceci incluant la préparation au cours ou à l'examen (ou la rédaction d'un travail s'il y a lieu). Il faut compter plutôt vingt-six (26) heures de cours, environ une quarantaine d'heures de préparation et une autre dizaine pour la préparation de l'examen. Le tout pour un total d'environ soixante-

quinze (75) heures. Il est aussi intéressant de souligner ici que le nombre d'heures de travail requis pour un cours de trois crédits ne diffère pas vraiment de façon sensible. Dans cette optique, je crois qu'exiger de l'étudiant une centaine d'heures de travail dans une clinique, le tout réparti sur une période de treize semaines est déjà très onéreux, beaucoup plus que ne peut l'être un cours de deux crédits, où il ne suffit que s'asseoir passivement dans une salle de cours.

Une combinaison "court-run"-recherche, solution prônée par les cliniques, pourrait ainsi permettre de satisfaire aux besoins de celles-ci d'élargir l'accès à ce cours et d'apporter une expérience pratique grandement profitable, je crois qu'en effectuant un tel travail, l'étudiant apporte des solutions concrètes à des problèmes concrets. Il développe un intérêt certain et obtient aussi une grande satisfaction personnelle. Il perçoit de façon tangible le fruit de ses efforts. Il peut aussi partager le fruit de ses recherches avec d'autres étudiants, augmentant par là même leurs connaissances.

D'autres solutions sont aussi offertes, si on élimine le "court-run", quoique l'on restreigne tout de suite le potentiel de cliniques intéressées. J'en proposerai ici trois. La première consiste en ceci: réduire le nombre d'heures requises ce cent à environ soixante-quinze. Cette exigence est en effet plus réaliste, beaucoup de cliniques ne pouvant pas assurer à l'étudiant du travail pour cent heures. Mon expérience personnelle dans les cliniques d'Outremont Park Extension et Plateau Mont-Royal m'a enseigné une telle chose. Ceci s'explique par les conditions dans lesquelles travaillent les avocats des bureaux d'aide juridique provinciale. En seconde lieu, il pourrait y avoir la possibilité de combiner la recherche dans une clinique avec un travail relatif aux problèmes rencontrés par l'étudiant, le tout pour totaliser soixante-quinze à cent heures. Enfin, une autre possibilité serait la combinaison clinique d'aide juridique de McGill-bureau provincial, le tout pour totaliser de soixante-quinze à cent heures. En bref, il faudrait favoriser la plus grande flexibilité compte tenu des grandes difficultés que connaît déjà l'étudiant désireux de s'inscrire dans ce cours.

La seconde critique que j'aimerais formuler porte sur l'administration même du cours legal clinic. Il importe de définir claire-

ment ici les exigences administratives du cours: nombre d'heures requises, travail possible, type de travail qui ne sera pas crédité... En effet, à la seule lecture de la description du cours dans le bottin des étudiants, il est difficile de s'imaginer les critères précis et le contenu même de ce cours. Un premier pas a été fait avec la feuille d'inscription actuelle. Il faut cependant préciser certaines choses, surtout au niveau du nombre d'heures requises. L'étudiant, logiquement, ne peut se présenter dans une clinique, y négocier un projet précis pour ensuite apprendre que celui-ci ne peut être réalisé. Il m'apparaît donc indispensable de connaître de façon aussi précise que possible les exigences de la faculté avant les négociations et ce, pour deux raisons. D'abord, un tel projet est nouveau pour les bureaux. Les avocats qui y travaillent veulent donc s'assurer d'une certaine rentabilité. L'idée d'avoir à organiser le travail d'un étudiant et d'avoir à surveiller celui-ci dans ses démarches ne leur sourit guère. L'étudiant doit donc présenter un projet aussi précis et structuré que possible. D'autre part, lorsqu'une entente est conclue, il est difficile pour l'étudiant de revenir en arrière, et de proposer des modifications substantielles.

Deux solutions sont donc possibles: la première consiste à déterminer de façon précise des critères fixes au niveau du contenu et du temps requis, et à les annexer à la formule déjà existante. Une seconde solution pourrait être de recommander à l'étudiant de rencontrer l'autorité compétente de la faculté afin de discuter du projet. Il pourrait aussi être intéressant de constituer un dossier où le travail des étudiants ayant complété ce cours dans les années précédentes serait compilé.

J'ai proposé certaines réformes afin d'élargir l'accès au cours legal clinic. Evidemment, dans sa forme actuelle, le cours n'est pas totalement inaccessible. Mais il est cependant dommage que sa structure et son contenu soient tels qu'ils découragent même l'étudiant le plus motivé. Il est en effet surprenant que l'Université McGill ne puisse offrir une expérience pratique qu'à deux ou trois de ses étudiants alors que l'UQUAM trouve le moyen de placer ses quatre-vingt étudiants tant en deuxième qu'en troisième année.

Je vous remercie de votre attention,

ANNE-MARIE VEILLEUX



(Continued from page 1)

That the following three credit semi-obligatory course be created: Property IV - Security on Moveables - The concepts in Quebec law of security on moveable property, including privileges, pledge and the right of retention. An examination of the financing of moveables in Quebec: manufacturing and wholesale financing; financing retail inventories; the drafting and execution of security agreements. Special emphasis on the Bank Act, The Special Corporate Powers Act and The Bills of Lading Act. Assignment of book debts, commercial pledge, factoring, conditional sales and leasing as financing devices."

The results of this amendment would be the amalgamation of the present Financing Real Estate Transactions course with the immoveables part of the present Property II course into one course, the amalgamation of the moveables segment of the present Property II course with the proposed Financing Commercial Transactions into one course and the avoidance of two credit courses.

There was consensus among the members of the Faculty Council that this was a good proposal, and the discussion was mainly concentrated around the fact that Property II would be semi-obligatory in the amendment. This would mean that the number of obligatory courses would be decreased by one, and it was deemed desirable to make one semi-obligatory course mandatory.

In the LUS proposal it was suggested that Special Contracts be made a prerequisite for Property II and IV. Professor Patrick Glenn was of the opinion that the suggestion to make Special Contracts obligatory and a prerequisite would be contrary to the policy that first year courses were supposed to be general and upper year courses specialized. Prof. Haanappel said that it was not necessary to have Special Contracts as a prerequisite for the two Property courses and Prof. MacDonald noted that the discussion was rather unusual in the sense that students had proposed an increase in obligatory courses and professors were in favour of a de-

crease. He suggested that the LUS would have no objection if the Council favoured leaving Special Contracts on the semi-obligatory list. Indeed, according to Marek Nitoslawski, the LUS representatives had added that amendment in order to make the restructuring of Property II and IV more acceptable to the Council. The end result of the discussion was that the LUS proposal to adopt the two Property courses was accepted and that the Property II course would be semi-obligatory. The status of the Special Contracts course remained unchanged. The mandatory courses in the BCL programme amount, therefore, to 17 units (which was 20) and semi-obligatory courses to 14 (was 11).

The Native Peoples and the Law course did not raise any objections and was accepted under the restriction of "availability of resources."

The last item on the agenda was the proposal regarding the Board of Student Advisors course (this course had to be restructured in order to satisfy the A.P. and P.C. of the Senate - see Lesley Cameron's article in Quid Novi II, No. 19, page 2).

Two problems were discussed. According to Prof. Groffier Atala, the new proposal would mean more work for the teachers. Although this was disputed especially by Prof. Durnford, who was of the opinion that the workload would not be all that much more, Campbell Stuart announced a change in the draft proposal which would require faculty members only to participate in the legal writing sessions and not all the sessions (this would mean only 4 out of 9 sessions).

The other problem was the grading of the students. Prof. Haanappel thought that a letter-grade marking system would provide more incentive, while the other line of thinking as expressed by Prof. Cantin Cumyn, was that this system could cause a discrepancy in the marking. It was therefore decided to accept the proposal with the change regarding faculty participation with a pass/fail system, both for students and advisors and a maximum of two units.

### \*\*\* COMING EVENTS \*\*\*

Thursday, February 18

#### Panel Discussions on International Conflict

The Panel Discussion Series of the McGill International Law Society is presenting its second symposium on Canada's Economic Role in Conflict Avoidance. Participants in the discussion will be Mr. Norman Hicks, from the Development Policy Department, World Bank, Mr. J.R. Roy, Director of Development Policy Analysis and International Cooperation, C.I.D.A. and Professor West from the Fletcher School of International Law and Diplomacy. Moot Court at 7:00 p.m.

Deadline for nominations for upcoming elections to the positions of Senate Law Representative and Director of the Daily Publications Society. (see Luc Drouin's article in this issue regarding the latter position)

#### General Assembly

Cutbacks will be discussed.  
Moot Court at 1:00.

#### L.U.S. Council Meeting

Main topics: Structural Revision of the L.U.S.; Cutbacks week: March 8-12.

#### Wine and Cheese

Common Room, 4-7 p.m.

#### 3rd Year Party

Thompson House at 9:00

#### Women and the Constitution

A talk by Doris Anderson. Tickets available free at Sadie's. Union Ballroom at 7:30 p.m.

Thursday, February 25

#### L'Association des Juristes Québécois

Invites all its members to an informal discussion on prisoners' rights.

Guest Speakers:  
Nicole Daigneault

Office des droits des détenues  
Jean-Marc Bougie

Group d'action en milieu carcéral

Where: 2000 Hôtel-de-Ville  
Date: February 25, 5 - 8 p.m.

Refreshments.

All new members welcomed.